



Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 16-2015

7 September 2015

MS. MARITA A. CALAJE
City Treasurer
OFFICE OF THE TREASURER
CITY OF PASIG

Re: Designation of City Treasurer as Member of the Bids and Awards Committee

Dear Ms. Calaje:

This is in response to your letter inquiring whether the City Treasurer may be designated as a regular member of the Bids and Awards Committee (BAC).

At the outset, we reiterate the principle consistently held by this office when the issue of the composition of the Bids and Awards Committee is raised *vis-à-vis* the provisions of COA Circular No. 2003-004. As we have stated in **NPM No. 36-2014**, dated 09 October 2014:

The list of offices mentioned in Sec 11.2.3 of the IRR of RA 9184 is not exclusive. Members of the BAC may come from offices other than those included in the enumeration, except the Chief Accountant and any personnel from the Accounting Unit because of the existence of conflict of interest.

This is consistent with **Circular 03-2003** issued on 01 December 2003 by the Government Procurement Policy Board (GPPB), informing the Heads of Departments, Bureaus, Offices and Agencies of the National Government; Government-Owned or Controlled Corporations (GOCCs), including State Universities and Colleges (SUCs); Local Government Units; and all other concerned on the applicability and implementation of the COA Circular No. 2003-004 in relation to the relevant provisions of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. 9184 (RA 9184). In the Circular, the Board explained that:

[T]he head of the procuring entity may designate any personnel from the finance area thereof, in the case of NGAs, departments, bureaus, offices, or instrumentalities of the Government, including judiciary and legislative branches, constitutional commissions, SUCs, GOCCs, and GFIs, or **from the Budget Office, in the case of LGUs, provided that such official is neither the Chief Accountant nor a personnel of the Accounting Unit of the procuring entity concerned.** However, the Chief Accountant and any personnel of the Accounting Unit of a procuring entity may serve as provisional members when the said Unit is the end-user of the items, subject of the bidding. (Emphasis supplied)

The rationale behind said principle was explained in two (2) earlier opinions. In **NPM No. 23-2004**, dated 26 February 2004, where we were confronted with the question of whether

RA 9184 and its IRR, or any circular, order or resolution issued by the proper government authorities, prohibit the appointment of the Municipal Treasurer as a member of the BAC, we stated:

[I]t is clear that the only personnel from the finance area who are prohibited to be designated as members of the BAC are the Chief Accountant and any personnel of the Accounting unit of the procuring entity concerned. Hence, the Municipal Treasurer may be designated by the head of the procuring entity as one of the BAC members in the LGU concerned.

Furthermore, we wish to inform your office that the same issue was raised during the orientation on RA 9184 and its IRR-A conducted by the Government Procurement Policy Board- Technical Support Office (GPPB-TSO) in cooperation with the Philippine League of Local Budget Officers (PHILLBO) on November 12-13, 2003, and consequently, was brought to the attention of the GPPB on its 7th GPPB meeting held on December 11, 2003. In the said meeting, **the Board unanimously agreed that the head of the procuring entity may designate the Municipal Treasurer as a member of the BAC considering that there is no conflict of interest between these two given functions, unlike in the cases of the Chief Accountant and any other personnel from the Accounting unit of the procuring entity concerned.**

From the foregoing citations, **it is clear that the only personnel from the finance area who are prohibited to be designated as members of the BAC are the Chief Accountant and any personnel of the Accounting unit of the procuring entity concerned. Hence, the Municipal Treasurer may be designated by the head of the procuring entity as one of the BAC members in the LGU concerned.** (Emphasis supplied).

Despite the earlier pronouncement, the same issue was again raised; thus, in NPM No. 058- 2004 dated 30 April 2004, we took the opportunity to further explain as follows:

Section 11.2.2 of the IRR-A of RA 918 provides for the composition of the BAC for the Local Government Units, to wit:

The BAC shall be composed of one (1) representative each from the **regular offices under the Office of Local Chief Executive such as, but not limited to the following: Office of the Administrator, Budget Office, Legal Office, Engineering Office, General Services Offices.** The end-user office shall always be represented in the BAC. The Chairman of the BAC shall be at least a third ranking permanent official of the procuring entity. The members of the BAC shall be personnel occupying *plantilla* positions of the procuring entity concerned.

The phrase “such as but not limited to” in the above-mentioned section implies that the enumeration provided therein is not exclusive. **As such, although the Office of the Treasurer was not specifically mentioned, the Local Chief Executive may designate one representative each, not only from the offices mentioned above but also from other regular offices under the Office of the Local Chief Executive.** (Emphasis supplied)

In view of the foregoing discussion, the City Treasurer may be designated by the head of the procuring entity as a regular member of the BAC considering that a conflict of interest does not exist, unlike in the case of the Chief Accountant and all accounting personnel, under such office, except when such office is the end-user of the project, in which case an end-user member coming from the Accounting Office may be designated as BAC member.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should you have further questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director V


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